

**REMARKS****I. Status of Claims**

Claims 1-6 and 8-20 are pending and 2-3 and 8-9 are amended. Claims 14-20 were previously withdrawn from consideration and claim 7 was previously canceled.

Claims 1, 5-6, 10, 12-13 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,330,500 to Song. Claims 4 and 11 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Song '500 in view of one having ordinary skill in the art. Claims 2, 3, 8, and 9 also stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Song '500 in view of U.S. Patent No. 6,793,672 to Khosravi.

**II. Rejections under 35 U.S.C. 102 and 103**

Claims 1 and 6 stand rejected under 35 U.S.C. § 102(b) and 103(a) as being allegedly anticipated by, and unpatentable over, U.S. Patent No. 5,330,500 to Song.

The undersigned submits that claim 1 is at least patentable over Song '500 and the cited references because it recites, "...a first stent...a second stent...wherein the first stent is located inside of the second stent."

The undersigned submits that claim 6 is at least patentable over Song '500 because it recites, "...a first stent...a second stent... wherein the first stent is located at least substantially inside of the second stent prior to insertion into the patient."

*a. "second stent"*

Song '500 regards a self-expanding stent 1 having a mesh/sleeve 91 made of nylon. Song '500 does not disclose a second stent as recited in the claims. The mesh/sleeve 91 of Song '500 is not recognized as a stent or an obvious equivalent of a stent as contended by the Office action.

For example, the specification of Song '500 discusses structure used to expand a constricted vessel portion and maintain an open passageway. Then, separately, the specification discusses a nylon mesh/sheath 91 that protects a the structure by preventing cancer cells and the like from penetrating into the inside of the stent. See 3:43-62. Thus, the specification of Song

‘500 recognizes and explicitly discusses the different structural and functional characteristics which exist between a stent and a mesh/sheath 91.

Further, in the medical device art, stents and mesh/sheaths are different having structural and functional distinctions. A stent is generally regarded as a scaffold to support the lumen or vessel wall of a patient. A mesh/sheath is generally regarded as a protective layer that can compress and contain stents, that can retain the ends of a stent on a catheter, and that may prevent fluids from accessing the stent. See USPAT 7,001,419:Background Section.

Nowhere in Song ‘500 does it suggest that the mesh/sheath 91 is a stent. The Song ‘500 sheath compresses and contains the stent. See 4:5-9. The mesh/sheath 91 is also configured to prevent fluid (e.g., cancer cells) from accessing the stent. Indeed, in Song ‘500, there is no discussion or suggestion that the mesh/sheath 91 can be independently used as a scaffold to expand a constricted vessel. Accordingly, the stent and mesh/sheath 91 are not art recognized or obvious equivalents, and it is improper to characterize the mesh/sheath 91 as a second stent.

For at least these reasons, claims 1 and 6 and their dependent claims are patentable over Song ‘500.

*b. “therapeutic coating”*

Next, the stent of Song ‘500 is not coated. Although the mesh/sheath 91 may be coated with silicon rubber to prevent cancer cells from penetrating the inside of the stent, the mesh/sheath 91 is not coated with a therapeutic, and, as noted above, is not a second stent. Claims 2 and 8 of the present invention require at least one of a first or second stent to have a therapeutic coating. Therefore, lacking any discussion and/or suggestion of a stent having a therapeutic coating, Song ‘500 fails to disclose all of the limitations of claims 2 and 8.

For at least these reasons, claims 2 and 8 and their dependent claims are patentable over Song ‘500.

*c. "Official notice"*

Claims 4 and 11 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Song '500 in view of one having ordinary skill in the art.

Regarding claims 4 and 11, there is no suggestion or motivation in the cited references to modify Song '500 to include first and second stents having similarly patterned structures as suggested by the Examiner. In fact, such a modification would render the mesh/sheath 91 inoperative for its intended purpose. It appears that Official Notice is being utilized to support the rejections of claims 4 and 11. Applicant respectfully traverses the Official Notice taken and requests evidence to substantiate the alleged motivations to modify Song '500. Specifically, Applicant respectfully requests evidence to substantiate the theory that it would have been obvious to the ordinary artisan to have modified a mesh/sheath 91 which prevents cancer cells from accessing the stent to have a similar patterned structure as a first stent. Such support is required under MPEP 2144.02 and 2144.03. Song '500, nor the cited references, discloses such a stent assembly, and these unsupported allegations cannot be used to reject the claims.

For at least these reasons, claims 4 and 11 are patentable over Song '500.

**III. Conclusion**

In view of the above amendments and remarks, it is believed that the above-identified application is in condition for allowance, and notice to that effect is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

The Commissioner is authorized to charge any fees or credit any overpayments which may be incurred in connection with this paper under 37 C.F.R. §§ 1.16 or 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

Date: June 22, 2006



Daniel G. Shanley  
Reg. No. 54,863

KENYON & KENYON LLP  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201